

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE ELECTRONIC BOOKS ANTITRUST
LITIGATION

No. 11-md-02293 (DLC)
ECF Case

This Document Relates to:

CLASS ACTION

ALL ACTIONS

**KIT A. PIERSON'S DECLARATION IN SUPPORT OF
CLASS COUNSEL'S MOTION FOR AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF EXPENSES RELATED TO APPLE SETTLEMENT**

I, KIT A. PIERSON, declare as follows:

1. I am a Partner in the law firm of Cohen Milstein Sellers & Toll PLLC (“Cohen Milstein”), one of the co-lead counsel of record for Class Plaintiffs in the above-entitled matter. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto.

2. The factual history of this litigation laid out in the Memorandum in Support of Class Counsel’s Motion for Attorneys’ Fees, Reimbursement of Expenses, and Participation Awards for Named Plaintiffs accurately reflects Cohen Milstein’s prosecution of this case, from its pre-filing investigation through the present day.

3. Cohen Milstein is an 85-lawyer firm with offices in New York, Washington D.C., Chicago, Denver, Philadelphia, and Palm Beach Gardens, Florida. Cohen Milstein has been one of the nation’s leading plaintiff’s class action firms for more than 40 years, and is particularly known for its expertise in complex antitrust litigation. The lead attorneys from Cohen Milstein in this action were myself and Jeffrey B. Dubner.

4. I am the co-chair of the Antitrust Practice Group at Cohen Milstein. My work has included representation of Fortune 500 corporations, leading national associations, and both corporate and individual plaintiffs in significant antitrust and complex litigation across the United States, including major antitrust class action litigation. This work has included significant representations of both plaintiffs and defendants. Among other recent matters, I was a member of the litigation and trial team that obtained a \$400 million (pre-trebling) jury verdict against Dow Chemical Co. in *In re Urethane Antitrust Litig.*, No. 04-md-1616 (D. Kan.), on top of \$139 million in settlements with other defendants. Prior to joining Cohen Milstein, I represented clients such as Microsoft Corporation and 3M Company in major antitrust class action matters as

a shareholder at Heller Ehrman LLP from 1997-2008. In addition to my work on class actions, I have litigated many other complex civil matters, including cases raising issues of significant public and national interest such as the representation of Guantanamo detainees challenging their indefinite commitment. I graduated *magna cum laude* from the University of Michigan Law School class of 1983, where I served as a Notes Editor on the *Michigan Law Review*. I subsequently served as a law clerk for the Honorable Chief Judge John Feikens of the United States District Court for the Eastern District of Michigan and the Honorable Judge Harry T. Edwards of the United States Court of Appeals for the District of Columbia Circuit.

5. Mr. Dubner is an associate in the Antitrust Practice Group at Cohen Milstein. He has represented both plaintiffs and defendants in complex antitrust litigation, dealing with the application of the Sherman Act in industries from health care and financial services to professional sports and publishing. Mr. Dubner graduated *magna cum laude* from Harvard Law School in 2009, where he served as a Notes Editor on the *Harvard Law Review*. He subsequently served as a law clerk for the Honorable Judge John G. Koeltl of the United States District Court for the Southern District of New York and the Honorable Judge Guido Calabresi of the United States Court of Appeals for the Second Circuit. He was recently named a “Rising Star” by *Super Lawyers Magazine*.

6. Details regarding other attorneys at Cohen Milstein who assisted in litigating this action can be found in our firm résumé, attached as Exhibit 1 to my October 7, 2013 Declaration, Dkt. No. 421.

7. Cohen Milstein’s lodestar since September 1, 2013 is \$1,394,033.75, and its litigation expenses since October 2, 2013, are \$26,145.69, for a total investment of \$1,420,179.44. A breakdown of the lodestar by lawyer or paralegal is as follows:

Timekeeper	Position	Rate	Hours	Total
Laura Alexander	Associate	\$475	2	\$950.00
Matt Axelrod	Partner	\$695	349.75	\$243,076.25
Meghan Boone	Associate	\$415	2.5	\$1,037.50
John A. Bracken	Staff Attorney	\$320	10.5	\$3,360.00
Benjamin D. Brown	Partner	\$665	0.75	\$498.75
William Cooke	Paralegal	\$250	11.5	\$2,875.00
Manuel John Dominguez	Partner	\$675	0.5	\$337.50
Jeffrey B. Dubner	Associate	\$440	998.25	\$439,230.00
Meghan Gentile	Staff Attorney	\$345	387.75	\$133,773.75
Hiba Hafiz	Associate	\$415	235.25	\$97,628.75
Richard A. Koffman	Partner	\$725	13.75	\$9,968.75
JiHoon Lee	Paralegal	\$260	1.5	\$390.00
Emmy Levens	Associate	\$475	2.25	\$1,068.75
Brenda Peterson	Paralegal	\$280	80.25	\$22,470.00
Kit A. Pierson	Partner	\$820	453.5	\$371,870.00
John D. Richards	Partner	\$835	1.5	\$1,252.50
Joseph Sellers	Partner	\$835	0.5	\$417.50
Daniel A. Small	Partner	\$795	1.5	\$1,192.50
Gordon Sommers	Summer Associate	\$245	6.5	\$1,592.50
Steven J. Toll	Partner	\$895	1.25	\$1,118.75
Andrew Twigg	Paralegal	\$250	17.5	\$4,375.00
David A. Young	Associate	\$505	110	\$55,550.00
		Totals	2688.75	\$1,394,033.75

8. Cohen Milstein's lodestar is calculated based on the current hourly rates of the firm, or the final hourly rate for attorneys or paralegals who have since left the firm. These hourly rates are the same as the usual and customary hourly rates charged for their services in non-contingent billable matters. Our firm's then-current hourly rates and have been found to be appropriate and reasonable in numerous other cases. *See, e.g., Parker v. Dish Network, L.L.C.*, No. 4:11-cv-1457, Doc. No. 63 (N.D. Cal. Feb. 13, 2012), *granted*, Doc. No. 87 (Apr. 17, 2012) (approving as reasonable rates ranging from \$530 to \$710 for partners and \$350 for associates); *In re Vonage Mktg. & Sales Practices Litig.*, MDL No. 07-3906, Doc. No. 97-4 (D.N.J. Apr. 11, 2011), *granted*, Doc. No. 109 (May 12, 2011) (\$550 to \$710 for partners and \$230 to \$355 for associates); *In re The Mills Corp. Sec. Litig.*, 265 F.R.D. 246, 260 (E.D. Va. 2009) (\$440 to \$775 for partners and \$295 to \$525 for associates).

9. Detailed and contemporaneously prepared time records supporting this summary are available, if requested by the Court.

10. Since October 2, 2013, Cohen Milstein has directly expended a total of \$26,145.69 in unreimbursed litigation expenses in prosecuting this litigation. They are the type of expenses typically billed by attorneys to paying clients in the marketplace, and include such costs as fees paid or incurred to experts, computerized research and other services, and travel in connection with this litigation since October 2, 2013. These expenses are broken down as follows:

Description of Costs	Amount
In-House Duplicating	\$ 41.10
In-House Color Copies	\$ 112.70
Long Distance (Third Party)	\$ 207.84
Postage	\$ 0.96
Local Courier	\$ 83.77
Air Courier	\$ 324.32
Other Court Fees	\$ 220.00
Transcripts	\$ 327.84
Lexis	\$ 4,248.93
Other Computer Services	\$ 6,086.74
Travel - Transportation	\$ 6,109.38
Travel - Hotel	\$ 4,578.19
Travel - Taxis, Tips	\$ 553.40
Travel - Meals	\$ 613.57
Travel - Long Dist. Telephone	\$ 42.40
Travel - Parking Charges	\$ 123.33
Professional Services	\$ 1,118.50
Books/Magazines	\$ 379.23
Secretarial Overtime	\$ 20.08
Administrative Overtime	\$ 68.99
Overtime Transportation	\$ 102.30
Overtime Meals	\$ 350.77
Supplies	\$ 31.89
Business Meals	\$ 399.46
TOTAL	\$ 26,145.69

11. The litigation expenses incurred in prosecuting this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers and check records and are an accurate record of the expenses incurred.

12. In my October 7, 2013 Declaration, I reported Cohen Milstein's lodestar and hours as of August 31, 2013 and its expenses as of October 1, 2013. At that time, our lodestar was \$3,355,050.00 and our expenses were \$76,678.63, for a total investment of \$3,431,728.63. Although that lodestar figure incorporated Cohen Milstein's 2013 rates, we have not revised our previously reported lodestar upward to reflect current hourly rates, although that is allowed by law. In total, our lodestar to date is \$4,749,083.75 and our expenses to date are \$102,824.32, for a total of \$4,851,908.07.¹

13. The expertise and experience of lead counsel is another important factor in setting a fair fee. As demonstrated by our firm résumé, Cohen Milstein employs some of the most experienced and skilled practitioners in the complex litigation field, and has long and successful track records in such cases. In addition to the *Urethanes* case discussed above, our recent successes include a landmark \$500 million settlement in *Maine State Retirement System v. Countrywide Financial Corp.*, No. 10-cv-302 (C.D. Cal.), the largest settlement to date in a mortgage-backed securities class action case. Our work has repeatedly been recognized by courts and commentators. For example, Law360.com named Cohen Milstein a "Competition Group of the Year" in January 2014, the first time it has ever included a plaintiff-side firm. The firm has extensive experience litigating complex individual and class actions in the fields of antitrust, securities fraud, civil rights, human rights, consumer fraud, ERISA, and employment law, as well as many other areas. Moreover, the fact that Cohen Milstein has demonstrated a willingness and ability to prosecute complex cases such as this through trial was undoubtedly a factor that

¹ This does not include Cohen Milstein's contribution of more than \$200,000 to the litigation fund. Hagens Berman and Cohen Milstein have jointly funded all expenses for the Plaintiff Class in this litigation, and expenses paid through the litigation fund are reported in the concurrently filed Berman Declaration.

encouraged defendant to engage in settlement discussions, and added valuable leverage in the negotiations, ultimately resulting in the recovery for the class.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 16th day of October 2014, in Washington, D.C.



KIT A. PIERSON

CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2014, I electronically filed the foregoing document using the CM/ECF system which will send notification of such filing to the e-mail addresses registered in the CM/ECF system, as denoted on the Electronic Mail Notice List, and I hereby certify that I have caused to be mailed a paper copy of the foregoing document via the United States Postal Service to the non-CM/ECF participants indicated on the Manual Notice List generated by the CM/ECF system.

/s/ Steve W. Berman
STEVE W. BERMAN